

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
Original Application No.127/2015.**

Dated this the 27th day of August, 2021.

CORAM:

Hon'ble Sh. Jayesh V. Bhairavia, Member (J)

Hon'ble Dr. A.K. Dubey, Member (A)

1. Shri Kiran Krishna Murty,
Son of Shri Premchandbhai Patel,
Age about 64 years,
Retd. Senior Sub Divisional Engineer
Residing at: 121, Upendra Park Society,,
Someshwar Part-III, thatlej,
Ahmedabad- 380 061.

...Applicant

(By Advocate Mr. M. S. Trivedi)

VS

1. Chief Managing Director,
Office of CMD,
Bharat Sanchar Nigam Limited,
Janpath, New Delhi – 110 001.
2. The Dy. Secretary to
Government of India,
O/o.GOI, Min. of Communication & IT,
Department of Telecom,
Sanchar Bhavan,
New Delhi – 110 001.
3. Chief General Manger,
O/o. CGM,
Gujarat Telecom Circle,
Telephone Bhavan,
C.G. Road, Ahmedabad – 380 009.

...Respondents

(By Advocate Mr. Joy Mathew R-1 & 3)

ORDER(ORAL)**PER: Hon'ble Shri Dr. A. K. Dubey, member (A)**

1. Aggrieved by the order of the respondents dated 01.04.2014 by which a penalty of 10% cut in pension for a period of 5 years was imposed on the applicant, the applicant has preferred this OA seeking following reliefs:-

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- (A) *That, the Hon'ble Tribunal be pleased to allow this petition.*
- (B) *That the Hon'ble Tribunal further be pleased to quashed and set aside the order No.VO/Conf/2004/2/64 dated 01.04.2014 issued by the respondent no.3.*
- (C) *That the Hon'ble Tribunal further be pleased to hold/declare that inaction on the part of the respondent no.1 not taking any decision on applicant's appeal dated 01.05.2014 addressed/preferred to the respondent no.1 is ex-facie, illegal, arbitrary and unjust.*
- (D) *Such other and further relief/s as may be deemed just and proper in view of the fact and circumstances of the case may be granted.*

2. Facts of the case are briefly recounted as under:-

- 2.1 The applicant was a sub divisional engineer in the service of the respondents who retired on 31.01.2010. While in service, he was proceeded against under Rule 14 of CCS (CCA) Rules, 1965 (Rule 36 of CDA BSNL Rules, 2006) for certain charges against him. There was a formal inquiry into the charges wherein, the Inquiry Officer vide his report dated 23.02.2012 held the charges as 'not proved'. However, the disciplinary authority disagreed with it since in his opinion, certain documentary and oral evidences were not taken full care of. There after the points of disagreement were communicated to the charged officer (CO) vide memorandum dated 30.07.2012 (Annexure A/3) for making representation against if any. Wide his communication dated 14.08.2012 (Annexure A/5) the CO preferred his representation against the disagreement note. The same was examined by the respondents with reference to the documentary evidences. The DA had recommended a cut of 10% in pension for a period of 5 years as a penalty for proven lapses/misconduct. As required under the procedure, it was submitted to the CMD, BSNL who, consequent upon superannuation of the applicant became the competent disciplinary

authority, who approved the proposed penalty. Accordingly, the order dated 01.04.2014 was issued imposing the penalty (Annexure A/1).

- 2.2 Against the impugned order dated 01.04.2014, the applicant made an appeal dated 01.05.2014 (Annexure A/2). This appeal has not received any response from the respondents.
3. Respondents have filed their replies. They have mainly contended that the departmental proceedings under Rule 14 culminated into imposition of penalty after observing all procedural requirements as per rules. Moreover, the applicant never challenged the existence, veracity or genuineness of the documents relied upon. The penalty was duly approved by the competent authority.
4. Applicant filed rejoinder reiterating his submissions.
5. Heard the counsel for the parties. Both sides reiterated their grounds & submissions. Learned Counsel for the applicant stated that after I.O's finding of charges as 'not proved', the disciplinary authority's disagreement requires reconsideration. Even the appeal dated 01.05.2014 hasn't been able to elicit any response. Per contra the learned Counsel for the respondents submitted that the entire process of inquiry and imposition of penalty had been conducted as per rules and there were no procedural infirmities or omission in the order. It has been stated that by another order dated 06.12.2019 on the applicant's conviction in two cases in CBI court, a penalty of 100% cut in pension has been imposed on the applicant in that case. This order is of course not intraneous to the matter before us here and hence we are treating is as obiter.
6. We have perused the material on record and we do not find any infirmity in the impugned order. The applicant has not been able to make out any case for our intervention. The OA stands dismissed.

(A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)